

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JOHN E. DELCO

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:15CV731-TSL-RHW

WARDEN B.E. BLACKMON

DEFENDANT

PROPOSED FINDINGS OF FACT AND RECOMMENDATION

John E. Delco filed a 28 U.S.C. § 2241 petition for writ of habeas corpus asserting that the Bureau of Prison's improperly classified him as a sex offender. Doc. [1] & [2]. Respondent has filed a motion to dismiss stating that, after a review, it was determined that the Delco's sex offender classification should be and has been removed. Doc. [14] & [15]. Respondent argues that Delco has been granted the relief he sought; therefore, the § 2241 petition should be dismissed with prejudice. Delco has not filed a response in opposition to the motion and does not challenge Respondent's assertion that the issue has been resolved in his favor. As reflected in the exhibit attached to Respondent's motion, Delco's custody classification form contains no "public safety" designation. Doc. [14-1]. Based on the foregoing, the undersigned finds that issue presented in the § 2241 petition has been resolved; therefore, Delco's petition should be dismissed with prejudice.

RECOMMENDATION

The undersigned recommends that Respondent's [14] Motion to Dismiss be GRANTED and the 28 U.S.C. § 2241 petition dismissed with prejudice.

NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must

serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions and recommendations to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the District Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar that party from a de novo determination by the District Court. Additionally, a party's failure to file written objections to the proposed findings, conclusions, and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed **factual findings and legal conclusions** that have been accepted by the district court and for which there is no written objection. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SO ORDERED, this the 14th day of April, 2016.

/s/ Robert H. Walker
ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE